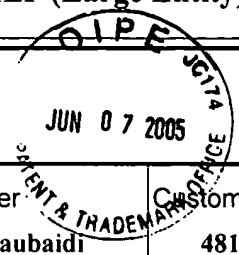


EFW HR

TRANSMITTAL OF APPEAL BRIEF (Large Entity)

Docket No  
ALM.022

In Re Application Of: N. Sundaresan



Application No.	Filing Date	Examiner	Customer No.	Group Art Unit	Confirmation No.
09/672,304	September 29, 2000	Haythim J. Alaubaidi	48146	2161	2605

Invention: **METHOD AND SYSTEM FOR SELECTIVELY ACCESSING FILES ACCESSIBLE THROUGH A NETWORK**

COMMISSIONER FOR PATENTS:

Transmitted herewith in triplicate is the Appeal Brief in this application, with respect to the Notice of Appeal filed on

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6/7/05

Signature

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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

**In re Application of**

N. Sundaresan

**Serial No.:** 09/672,304

**Group Art Unit:** 2161

**Filed:** September 29, 2000 **Examiner:** Alaubaidi, Haythim J.

**For:** METHOD AND SYSTEM FOR SELECTIVELY ACCESSING FILES ACCESSIBLE  
THROUGH A NETWORK

Honorable Commissioner of Patents  
Alexandria, VA 22313 - 1450

**APPEAL BRIEF**

Sir:

This paper is a brief on appeal from the Examiner's Final Rejection of all claims 1-23 in an Office Action dated December 8, 2004. This brief on appeal is accompanied by the fee set forth in § 41.20(b)(2).

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**I. REAL PARTY IN INTEREST**

The real party in interest in the present application is International Business Machines Corporation pursuant to an Assignment of 100% interest in the patent application under appeal that was recorded on September 29, 2000, by the United States Patent and Trademark Office at Reel No. 011161, Frame No. 0628.

**II. RELATED APPEALS AND INTERFERENCES**

There are no other appeals or interferences known to Appellants, Appellants' legal representative, or Assignee, which would directly affect or be directly affected by or have a bearing on the Board's decision in this appeal.

**III. STATUS OF CLAIMS**

Claims 1-23 are all the claims presently pending in the application. Claims 1-23 stand rejected under 35 U.S.C. § 103(a) as being anticipated by the Ronning et al. reference in view of the Yamane et al. reference. Claims 1, 7, 17, and 23 are independent.

All of the currently pending claims 1-23 are being appealed.

**IV. STATUS OF AMENDMENTS**

The Amendment filed on February 8, 2005, in response to the December 8, 2004, Office Action, was not entered by the Examiner as allegedly raising new issues.

The most recently entered Amendment was filed on June 7, 2004.

The claims in the attached Appendix reflect the version of the claims after entry of the June 7, 2004, Amendment.

**V. SUMMARY OF CLAIMED SUBJECT MATTER**

An exemplary embodiment of the claimed invention is directed to a method for searching files stored on a network. The method includes downloading a first file on the network from a server to a client (steps 110 and 120 of Figure 1, page 7, lines 13 - 16), accessing time data from within the first file (also steps 110 and 120 of Figure 1), and setting an accessing time to access a second file on the server based on the time data from the first file (steps 130 and 140 of Figure 1, page 7, line 16 - page 8, line 2). The time data including the actual time when the second file is scheduled to be updated (e.g., corresponding to when files on a web site are scheduled to be “pushed” as indicated by a channel definition file, page 8, lines 2 - 4).

All of the independent claims recite time data that includes an actual time when a second file is scheduled to be updated.

Conventional network file search engines conduct searches for updated files on networks periodically, such as at regular intervals. One problem with these conventional systems is that these systems do not have any method for determining when a web site might be scheduled to be updated. Depending on how often a web site is updated, the web crawler’s archive data could be very outdated. On the other hand, frequent web crawler visits to web sites which are not frequently updated consume valuable computer resources.

The present invention provides a method for determining when and how often a web

crawler should return to a web site. The present invention provides this advantage because the method downloads a first file on a network, accesses time data from within the first file and sets an access time to access a second file based upon the time data from within the first file, where that time data indicates when the second file is scheduled to be updated.

In an exemplary embodiment of the present invention, the method accesses a channel definition format (CDF) file which provides an indication of when a particular channel (and/or subchannel) is scheduled to be updated (see page 4, line 15 - page 5, line 2). Therefore, in this exemplary embodiment the first file is the CDF and the second file is the channel.

In this manner, the present invention provides for more efficient web crawling of a web site by crawling the site when and where it is likely the information contained therein is updated (page 6, lines 7-15).

## **VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL**

Appellants present the following issue for review by the Board of Patent Appeals and Interferences.

Whether the references applied by the Examiner in the obviousness rejection teach or suggest all the claim limitations.

In particular, all of the independent claims 1, 7, 17, and 23 recite time data that includes an actual time when a second file is scheduled to be updated.

None of the applied references teaches or suggests time data that includes an actual time when a second file is scheduled to be updated.

## **VII. ARGUMENT**

The applied references do not teach or suggest all the claim limitations.

*“To establish a prima facie case of obviousness, three basic criteria must be met. . . . Finally, the prior art reference (or references when combined) must teach or suggest all the claims limitations.”* (M.P.E.P. § 2143).

None of the applied references teaches or suggests the features of the present invention including: 1) setting an accessing time to access a second file on a server based on time data that includes an actual time when the second file is scheduled to be updated (independent claims 1 and 17); 2) setting an accessing time to re-access a server based on time data that includes an actual time when a second file is scheduled to be updated (independent claim 7); and 3) means for setting an accessing time to access a second file on a server based on time data that includes an actual time when the second file is scheduled to be updated (independent claim 23).

All of the independent claims recite an actual time when a second file is scheduled to be updated.

The Examiner admits that the Ronning et al. reference “does not explicitly indicate: . . . the time data is an actual time for future updates (scheduled updates).” (Page 5, line 21 - page 6, line 2 of the December 8, 2004, Office Action).

The Examiner alleges that the Yamane et al. reference remedies the deficiencies of the Ronning et al. reference. However, the Examiner fails to present a *prima facie* case for obviousness by failing to provide a prior art reference that teaches or suggests all of the claim

limitations.

In particular, the Examiner has failed to apply a reference that teaches or suggests an actual time when a second file is scheduled to be updated.

Indeed, the Examiner fails to allege that any of the applied references teaches or suggests an actual time when the second file is scheduled to be updated.

Rather, the Examiner merely alleges that the Yamane et al. reference teaches “wherein the time data is an actual time for a future update (Figure 2, i.e. next update prediction time)” and “a system where it predicts a future update including setting an actual time ate (sic) of when this update will occur (Col 5, lines 48-56).” (Page 6, lines 5-6 and 11-12, respectively).

Contrary to the Examiner’s allegation, the Yamane et al. reference does not teach or suggest time data that includes an actual time when the second file is scheduled to be updated.

The Yamane et al. reference discloses a system that downloads data from a network by predicting when the data might be updated. The system disclosed by the Yamane et al. reference either looks for that information within the file (i.e., the last time the file was updated) or predicts when the data might be updated based upon the history of previous updates of the file. The system predicts when the data might be updated, downloads the data, checks to see if the data has really been updated and, if not, it refines the prediction of when the data might be updated (col. 8, lines 22 - col. 9, line 15).

In stark contrast, the present invention relies upon the actual time that the file is scheduled to be updated as specified by the server rather than relying upon some algorithm that is performed by a client that attempts to predict when the file might be updated. As noted by the

Yamane et al. reference which acknowledges that the system must check to see has really been updated, the Yamane et al. reference merely attempts to predict when the file might be updated rather than relying upon the actual time that the file has been scheduled to be updated.

The Yamane et al. reference very clearly explains that a “next update prediction time storage section 105 has the function of relating a link to the next update prediction time of the data item specified by the link, storing them, and outputting and updating the next update prediction time.” (Emphasis added, col. 4, lines 35-39).

Further, the Yamane et al. reference very clearly explains that an “update history storage section 108 relates a link to the update history (history table) of the data item specified by the link and stores them. The update history storage section 108 has the function of adding the update history and the function of calculating the next update prediction time of each link from the update history corresponding to each link.” (Emphasis added, col. 4, lines 42-48).

“Since all of the pieces of information stored in these storage sections are related through links, the next update prediction time storage section 105 and the update history storage section 108 may not have physically different storage units. Therefore, they are stored in a common storage unit to have the relationship as shown in FIG. 2.” (Emphasis added, col. 4, lines 57 - 62).

“First, the next update prediction time to be outputted and updated by the next update prediction time storage section 105 is stored so as to correspond to each link. As shown in FIG. 2, four next update prediction times July 1 12:00, July 1 17:00, July 1 20:00, (sic) are stored so as to correspond to the four links.”

In other words, the Yamane et al. reference discloses a system that downloads data from a



network based upon a prediction of when the data might be updated. The system disclosed by the Yamane et al. reference either looks for that information within the file (i.e., the last time the file was updated) or predicts when the file might be updated based upon the history of previous updates of the file. The system predicts when the file might be updated, downloads the data, checks to see if the data has really been updated and, if not, it refines the prediction of when the file might be updated (col. 8, lines 22 - col. 9, line 15).

In particular, the Yamane et al. reference very clearly explains that the update prediction times that are stored in the update prediction time storage section 105 are calculated “from the update history corresponding to each link.” (Col. 4, lines 44 - 47).

This very clearly illustrates that the Yamane et al. reference does not teach or suggest an actual time of when a file is scheduled to be updated, because the Yamane et al. reference is forced to perform a calculation based upon the history of previous updates of a corresponding file in order to predict (i.e., guess, estimate, assume) when the file might be updated.

In stark contrast to the Yamane et al. reference, the present invention relies upon the actual time that the file is scheduled to be updated as specified by the server rather than relying upon some algorithm that is performed by a client that attempts to predict when the file might be updated. As noted by the Yamane et al. reference which acknowledges that the system must check to see has really been updated, the Yamane et al. reference merely attempts to predict when the file might be updated rather than relying upon the actual time that the file has been scheduled to be updated.

Clearly, the Examiner’s citation of Figure 2, does not support the Examiner’s allegation

that the Yamane et al. reference teaches or suggests time data that includes an actual time when the second file is scheduled to be updated.

Rather, Figure 2 of the Yamane et al. reference merely discloses a prediction of when a file might be updated.

Appellant respectfully requests a reversal of the Examiner's rejection and allowance of the present application.

#### **VIII. CLAIMS APPENDIX**

Claim 1. A method for searching files stored on a network, comprising:

downloading a first file on the network from a server to a client;

accessing time data from within the first file; and

setting an accessing time to access a second file on said server based on said time data from the first file, wherein said time data includes an actual time when said second file is scheduled to be updated.

Claim 2. The method of claim 1, wherein the second file is an updated version of the first file.

Claim 3. The method of claim 1, further comprising selecting a second file to download based on said time data downloaded from the first file.

Claim 4. The method of claim 1, wherein said time data comprises a channel definition format file (CDF).

Claim 5. The method of claim 1, wherein said setting an accessing time comprises:

analyzing the time data from the first file to estimate when a second file is scheduled to be updated; and

assigning the accessing time based on said estimate of when the second file is scheduled to be updated.

Claim 6. The method of claim 3, wherein said setting an accessing time comprises:

analyzing the time data from the first file to estimate when a second file is scheduled to be updated; and

assigning the accessing time based on said estimate of when the second file is scheduled to be updated.

Claim 7. A method for searching files on a network, comprising:

accessing a server on the network from a client;

downloading a first file from said server to said client;

accessing time data from within said first file; and

setting an accessing time to re-access the server based on said time data from the first file,

wherein said time data includes an actual time when a second file is scheduled to be updated.

Claim 8. The method of claim 7, further comprising:

accessing the server based upon the accessing time; and  
downloading a second file from the server.

Claim 9. The method of claim 8, wherein the second file is an updated version of the first file.

Claim 10. The method of claim 7, further comprising selecting said second file to download based on said time data downloaded from the first file.

Claim 11. The method of claim 8, further comprising selecting said second file to download based on said time data downloaded from the first file.

Claim 12. The method of claim 7, wherein said data comprises a channel definition format file (CDF).

Claim 13. The method of claim 7, wherein said setting an accessing time comprises:  
analyzing the time data from the first file to estimate when a second file is scheduled to be updated; and  
assigning the accessing time based on said estimate of when the second file is scheduled to be updated.

Claim 14. The method of claim 13, wherein the accessing time is after the scheduled update of the second file.

Claim 15. The method of claim 8, wherein said setting an accessing time comprises:  
analyzing the time data from the first file to estimate when a second file is scheduled to be updated; and  
assigning the accessing time based on said estimate of when the second file is scheduled to be updated.

Claim 16. The method of claim 10, wherein setting an accessing time comprises:  
analyzing the time data from the first file to estimate when a second file is scheduled to be updated; and  
assigning the accessing time based on said estimate of when the second file is scheduled to be updated.

Claim 17. A system comprising a machine readable recording medium storing a program for searching through files stored on a network, said program including executable instructions for:  
downloading a first file on the network from a server to a client; and  
accessing time data from within the first file; and  
setting an accessing time to access a second file on said server based on said time data from the first file, wherein said time data includes an actual time when said second file is

scheduled to be updated.

Claim 18. The system of claim 17, wherein the second file is an updated version of the first file.

Claim 19. The system of claim 17, further comprising selecting said second file to access based on said time data downloaded from the first file.

Claim 20. The system of claim 17, wherein said time data comprises a channel definition format file (CDF).

Claim 21. The system of claim 17, wherein setting an accessing time comprises:  
analyzing the time data from the first file to estimate when a second file is scheduled to be updated; and  
assigning the accessing time based on said estimate of when the second file is scheduled to be updated.

Claim 22. The system of claim 19, wherein setting an accessing time comprises:  
analyzing the time data from the first file to estimate when said second file is scheduled to be updated; and  
assigning the accessing time based on said estimate of when the second file is scheduled

to be updated.

Claim 23. A system for searching files stored on a network, comprising:

- means for downloading a first file on the network from a server to a client;
- means for accessing time data from within the first file; and
- means for setting an accessing time to access a second file on said server based on said time data from the first file, wherein said time data includes an actual time when said second file is scheduled to be updated.

**IX. EVIDENCE APPENDIX**

No evidence is being submitted with this brief on appeal and no evidence has been entered in the record by the Examiner or by the Appellant in the present application.

**X. RELATED PROCEEDINGS APPENDIX**

There are no decisions rendered by a court or the Board in any related appeals and/or interferences.

**XI. CONCLUSION**

In view of the foregoing, Appellant respectfully requests reversal of the final rejection and allowance of all of claims 1-23.

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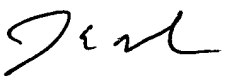
DOCKET NO. AM9990146US1

The Commissioner is hereby authorized to charge any deficiency in fees or to credit any overpayment in fees to Assignee's Deposit Account No. 09-0441.

Respectfully Submitted,

Date: \_\_\_\_\_

6/7/05



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